

Plaintiff has now filed a motion to reopen this case, presumably pursuant to Rule 60,

Fed.R.Civ.P. Plaintiff states in his motion that he is presently housed at the Kirkland Correctional Institution as part of the statewide protective custody program. Plaintiff asserts in his motion that the statewide protective custody program is in the process of being moved from the Kirkland Correctional Institution to the Perry Correctional Institution, and that he does not want to be transferred to the Perry Correctional Institution because this would place Plaintiff in a “life threatening situation”.

The allegations set forth in Plaintiff’s motion do not justify a reopening of his case under Rule 60. Rather, it is readily apparent that this is an entirely new claim which Plaintiff may raise, if at all, in a new § 1983 lawsuit, *after* he has exhausted his administrative remedies. See 42 U.S.C. § 1997e(a) [“No action shall be brought with respect to prison conditions under section 1983 of this Title, or any other federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted”]. Therefore, it is recommended that Plaintiff’s motion to reopen this civil action be **denied**.

Plaintiff is referred to the important Notice attached to this Report and Recommendation.



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Bristow Marchant  
United States Magistrate Judge

August 27, 2012  
Charleston, South Carolina



### **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4<sup>th</sup> Cir. 2005).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk  
United States District Court  
Post Office Box 835  
Charleston, South Carolina 29401

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).

